



SinoInsights™

Interview: Tom Tong†

Straton Papagiannas & Lin Liu
December 1, 2021



Mr. Tong, you began as an associate attorney back in 1999 at Locke Liddell & Sapp LLP and quickly built a practice to represent major U.S.-based companies in the negotiation of joint ventures and manufacturing contracts in China. Fast-forwarding to today, you are an international partner at Locke Lord LLP, in which you handle matters between U.S. and Chinese parties. According to your extensive experience, is there anything in common in disputes between U.S. and Chinese parties, even though the exact legal issues involved are different?

While each case is different, there is a common problem in most of the cases that I have handled, namely miscommunication. A case that occurred in 2006 is a good example to show this problem. The dispute was between a client who was based in the United States and the client's China-based contract manufacturer. The manufacturer stopped production for our client because, without the manufacturer's prior approval, an employee of our client brought visitors to the manufacturer's facility and the visitors turned out to be from a competitor of the manufacturer. Our client was initially advised by other lawyers to file suit, trying to force the Chinese manufacturer to resume production

Tom Tong Founder, Lawmato International Partner, Locke Lord LLP



Tom Tong has been an International Partner at the international law firm Locke Lord LLP since 2011. At Locke Lord LLP, Mr. Tong has focused on China-related transactions and dispute resolution matters. Mr. Tong has advised Chinese buyers in their acquisition of U.S.-based companies in manufacturing, distribution, engineering, real estate, and other industries, with total transaction value in excess of USD 4 billion. His dispute resolution practice is marked by his representation of renowned Chinese companies and individuals in U.S. lawsuits relating to breach of exclusivity, fiduciary duties, payment obligations, quality defects, non-competition, shareholder disputes, investment fraud, and other contractual and tort claims.

Mr. Tong's close relationship with Locke Lord LLP began in 1999, when he joined the firm's predecessor, Locke Liddell & Sapp LLP, after his completion of the JD program at Vanderbilt University School of Law. He quickly built a strong China practice, and his experiences ultimately led him to establish The Tong Law Firm in 2006, while continuing to provide assistance to his former employer in China-related matters. His continuous working relationship with Locke Liddell & Sapp LLP and expanded client base eventually led to his return to the firm.

Drawing from his breadth of experience in managing client relationships with companies large and small and his pro bono services to individuals locally and globally, Mr. Tong founded Lawmato in January 2021. Developing this innovative online legal service platform, Mr. Tong is on a mission to allow individual consumers, small businesses, and even lawyers to have convenient and reliable access to experienced U.S. attorneys while enabling these attorneys to expand their own client base.

Mr. Tong received a B.A. from Shandong University, China, in 1987, an M.B.A. from Rollins College, Florida, in 1993, and a J.D. from Vanderbilt University, Tennessee, in 1999.

Tom Tong

immediately. Sensing that the Chinese company's decision to stop production was likely a posturing move to express its anger, I advised that the president of my client and I fly to China immediately to meet with the president of the manufacturer. We did and after holding a meeting that lasted for a few hours, production was resumed. We avoided the mutually destructive lawsuit by reducing the tension through sincere and efficient communication. Had we filed a suit, the animosity would have intensified so much that further collaboration would not be possible.

I have handled other cases where we had no choice but to duke it out in courts, due to years of accumulated misunderstanding between the parties. In one case where we defended a China-based company against a U.S. company, our client was so offended by the U.S. company's filing suit within a few days before our client's IPO that it even refused to participate in mediation with the U.S. company despite the court's suggestions. Litigation became the only option. It took nine years and a significant

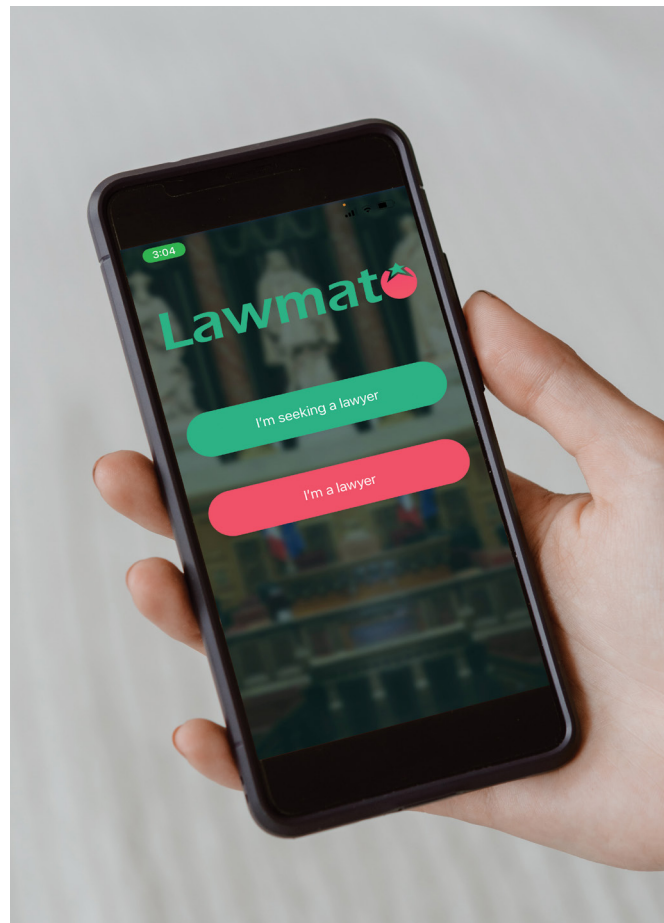
amount of legal fees to eventually win the case for our client. Although our client was satisfied with the favorable result, the economics could have been different had the parties continued rational communication, instead of completely shutting down from each other for nine years.

A major lesson learned after all of these years: communication is the most significant part of lawyering, especially when it comes to cross-border legal advice because of the existence of different cultures.

In your more than 20 years of experience acting as liaison between U.S. and Chinese firms, you must have observed different challenges in doing deals in China and in the United States. What are they? We are also curious to know how U.S.-China relations over the past decades have affected your role as a lawyer and in what ways you have had to adapt to the changes in U.S.-China relations.

† The citation of this interview is: Straton Papagiannas & Lin Liu, *Interview: Tom Tong*, SINOTALKS.COM, SinoInsights™, Dec. 1, 2021, <https://sinotalks.com/sinoinsights/202112-papagiannas-liu>.

The original, English version of this interview was prepared by Straton Papagiannas, Lin Liu, and Jennifer Baccanello; it was finalized by Nathan Harpainter and Dr. Mei Gechlik. The information and views set out in this interview are the responsibility of the interviewee and do not necessarily reflect the work or views of SINOTALKS.COM.



the role of governmental relationship is often perceived as carrying more weight in China than in the United States.

As for the second part of your question, I must say that I entered law practice with perfect timing. In my early years, there was a wave of investment from the United States into China, followed seamlessly by investment from China into the United States. This mutual investment has slowed down in recent years because the geopolitical wind has been blowing quite differently. The fundamental role of lawyers, however, remains the same—we try to understand clients' expectations and work hard and strategically towards meeting such expectations.

You were raised in China and undertook your undergraduate courses there until you set out on your legal career in the United States. Your perception of the U.S. legal system and your comparison of this system with its counterpart in China should be of great interest to our readers. We would, therefore, like to ask you two questions.

First, "EQUAL JUSTICE UNDER LAW" are the words inscribed on the facade of the United States Supreme Court building. Reflecting on your many years of

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There are definitely different challenges in doing deals in China and in the United States. For example, U.S. investors in China do not face any major foreign exchange control issues but are often concerned with their Chinese counterparts' lack of legal representation. Chinese investors in the United States, on the other hand, are often concerned about payment issues and the U.S. counterparts being overly armed with lawyers.

Another major difference is that we often encourage U.S. client business teams to invest time in getting to know their Chinese counterparts without emphasizing the governmental relationship, whereas we, in handling a Chinese acquisition matter in the United States, always recommend a public/government relations consultant to Chinese clients to ensure success in the anticipated review by the Committee on Foreign Investment in the United States (i.e., CFIUS). This may sound counterintuitive as

working as a lawyer in the United States, what is your perception of access to justice in the country?

Second, what are your insights on the similarities and differences between the Chinese and U.S. legal systems? We are particularly interested to know what role technology has played in assisting with dispute resolution. In China, with support from the government, online dispute resolution seems to have gained traction, especially during the pandemic. How about the United States?

Equal justice is a noble goal. The U.S. legal system has its advantages in that it allows for fair presentation of facts and fair adjudication according to statutes and judge-made law (i.e., common law). Although not perfect, the U.S. judicial system maintains its integrity rather well and is an institution that people can trust, at least most of the time.

However, the U.S. legal system has proved to be less helpful for addressing small claims. "Fact finding", "discovery", and case law research are so expensive that parties with limited means are simply not in a position to seek justice through the legal system. Put simply, if you want to sue someone for a small amount of damages, the legal expenses incurred will likely exceed the amount of damages stated in your claim.

Your second question refers to technology. In terms of embracing new technologies, the U.S. legal industry lags behind the Chinese legal industry. There are some legitimate reasons, such as confidentiality and security concerns, behind the U.S. legal industry's reluctance to use technologies. Perhaps, another less discussed reason is that most U.S. law firms are established as limited liability partnerships or similar forms, which are not the best vehicles for long-term investment decisions, such as investing in technologies. Similarly, U.S. courts

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are running on budgets that are usually insufficient for the purchase of innovative technologies. The Covid pandemic has, however, brought Zoom to court hearings and the mediation/arbitration process. Maybe this is a blessing in disguise in terms of using technology in the U.S. legal system.

In early 2021, you founded Lawmato, an online legal service platform enabling individual consumers and small businesses to have access to experienced attorneys, who, in return, can quickly expand their client base. It seems that online legal service platforms like Lawmato can improve access to legal guidance and can help people to identify and manage legal risks before they intensify. What role do you think online legal service platforms such as Lawmato can play in changing the legal services industry?

Lawmato is an app for lawyers to provide online consultation to consumers, including individuals and small businesses, anywhere in the world via the robust

audio/video communication capacities of the app. Lawmato improves these consumers' access to legal services by using three approaches. First, it combines secure telecommunication and payment processing technologies to lower the administrative cost for lawyers who take on small matters. Second, after a rigorous selection process, it invites good lawyers in different legal fields of expertise to join the platform and features their specialties and professional experience for ease of search. Third, it allows consumers to enter in advance their payment methods so as to alleviate lawyers' concerns about collection of fees and avoid having a fee retainer arrangement, which is a usual practice by law firms. With these three approaches, Lawmato is able to offer accurate, transparent, and efficient services for both the consumer and provider. As lawyers are protected by Lawmato's payment assurance mechanism, they can devote their energy to providing quality legal service, which in turn makes clients fully satisfied.

Lawmato has the potential to change the legal services industry by offering a platform that connects consumers and lawyers located in different jurisdictions and that gives individuals and small businesses more control over their search for excellent and affordable legal advice at their fingertips without worrying about where to go and whom to call.

Given China's strong interest in seeing its citizens resolve their disputes by affordable and efficient means, do you think that legal service platforms such as Lawmato could take root in China or at least select cities in the country?

Definitely. Lawmato is free for anyone to download. Lawmato creates a virtual law firm for individuals and small businesses. Whether you are a parent trying to find a lawyer to help your child studying in a foreign country apply for a work visa, or a business executive who needs legal assistance in a foreign country to handle a contractual dispute, or a lawyer who needs to quickly understand

an area of law outside your expertise, you can easily use Lawmato and timely consult with a lawyer of your choice.

Additionally, Lawmato hosts weekly legal discussions on social media. Most recently, we have invited lawyers who have joined Lawmato to discuss practical issues for foreign students and new immigrants in the United States. We also organized a panel discussion with lawyers from Brazil, Mexico, Spain, and the United States to share the common pitfalls in each of these jurisdictions. Just like DiDi for transportation needs, Lawmato is the app for legal needs, especially those involving cross-border issues.

For the young lawyers out there who have similar backgrounds like yours, what advice do you have for them in terms of developing a legal career amidst a complicated international situation and rapid technological changes?

I am probably the one who needs advice from young lawyers in terms of using technologies. I have learned so much from preparing for the launch of Lawmato to the current operation of the platform. Much more needs to be learned to adapt ourselves to the changing legal landscape. We must remain humble and openminded in the face of new technologies. For example, the conventional wisdom is that robots are unlikely to replace human lawyers. But who is to say that AI technologies will not significantly eliminate much of the redundant work in our profession (e.g., case law research, document review, and simple drafting)? For the time being, I suggest that every lawyer beginning her legal career still focus on learning the fundamentals of the law and the practice of it. Once having learned the fundamentals, young lawyers can be more effective than their established colleagues, simply because they are better technology users, if not innovators themselves.

Thank you so much for sharing your insights with us! ●

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